

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

DENNIS RAY PINSON §
v. § CIVIL ACTION NO. 6:07cv206
DIRECTOR, TDCJ-CID §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Petitioner Dennis Pinson, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of his confinement. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Pinson complained of a conviction which he received on December 31, 1999, for driving while intoxicated, for which a sentence of 10 years in prison was assessed. He previously challenged this conviction in a federal habeas corpus petition styled Pinson v. Director, TDCJ, civil action no. 6:02cv46. On May 11, 2007, the Magistrate Judge entered a Report recommending that the present case be dismissed for failure to secure permission from the Fifth Circuit Court of Appeals to file a successive petition, as required by 28 U.S.C. §2244(b)(3).

A copy of this Report was sent to Pinson at his last known address, return receipt requested, but no objections have been received; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Magistrate Judge's Report is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus is DISMISSED without prejudice, with refiling conditioned upon receipt of permission from the Fifth Circuit to file a successive petition. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

SIGNED this 4th day of June, 2007.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE